

AMENDED IN SENATE APRIL 18, 2001

**SENATE BILL**

**No. 47**

**Introduced by Senator Bowen**

December 8, 2000

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An act to amend Sections 335 and 341.2 of, and to repeal and add Sections 337 and 338 of, 337, and 341.2 of the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 47, as amended, Bowen. Electrical restructuring: *Oversight Board*: Independent System Operator: ~~Power Exchange~~.

The existing restructuring of the electrical services industry provides for the authorization of direct transactions between electricity suppliers and end use customers and for the establishment of an Independent System Operator and a Power Exchange. An Electricity Oversight Board is also established to oversee the Independent System Operator and the Power Exchange. ~~The~~ *Under existing law, the* Oversight Board has the exclusive right to *decline to confirm the appointments of members of the governing board of the Independent System Operator.* ~~approve procedures for the election, submission for confirmation, and qualification for Independent System Operator and Power Exchange governing board members, all of whom are required to be electricity consumers in the area served by the Independent System Operator and the Power Exchange. The governing boards are required to include representatives of investor-owned utility transmission owners, publicly owned utility transmission owners, nonutility electricity sellers, public buyers and sellers, private buyers and sellers, industrial end users, commercial end users, residential end users, agricultural end users, public interest groups, and nonmarket participant representatives. A~~

~~simple majority of each board is required to consist of persons who are themselves unaffiliated with electric generation, transmission, or distribution corporations. The structural composition of the governing boards existing on July 1, 1999, is required to remain in effect until an agreement with a participating state is legally in effect. However, prior to that agreement, the state retains the right to change each governing board into a nonstakeholder board. If that legislative change occurs, revised bylaws are required to be filed with the Federal Energy Regulatory Commission under a specified provision of federal law.~~

~~This bill, instead, would require that the Independent System Operator and Power Exchange governing boards be composed of 3 independent directors appointed by the Governor, and subject to confirmation by the Senate.~~

~~The bill would prohibit a member of the independent governing board appointed by the Governor from being affiliated with any actual or potential participant in any market administered by the Independent System Operator or the Power Exchange.~~

~~The bill would require the board to require the articles of incorporation and bylaws of the Independent System Operator and the Power Exchange to be revised, and to make filings with the Federal Energy Regulatory Commission as the board determines to be necessary. Under existing law, the existing Independent System Operator governing board is required to be replaced, within a specified period of time, by a 5-member independent governing board of directors appointed by the Governor for one-year terms. Existing law requires that a member of the independent governing board of the Independent System Operator not be affiliated with any actual or potential market participant administered by the Independent System Operator.~~

~~This bill would delete the Electricity Oversight Board's exclusive right to decline to confirm the appointments of members of the governing board of the Independent System Operator. This bill would require the Independent System Operator governing board appointed by the Governor to be confirmed by the Senate. The bill would require these appointments to be for 3-year terms, with initial appointments of one member for a one-year term, 2 members for a 2-year term, and 2 members for a 3-year term. The bill would specify that a member of the governing board of the Power Exchange is not considered to be affiliated with a market participant solely as a consequence of service on the governing board of the Power Exchange.~~



The bill would make ~~other~~, a conforming ~~changes~~ change in existing law.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

~~SECTION 1. Section 335 of the Public Utilities Code is~~

*SECTION 1. Section 335 of the Public Utilities Code, as amended by Section 1 of Chapter 1 of the 2001-02 First Extraordinary Session, is amended to read:*

335. In order to ensure that the interests of the people of California are served, a five-member Electricity Oversight Board is hereby created as provided in Section 336. For purposes of this chapter, any reference to the Oversight Board shall mean the Electricity Oversight Board. Its functions shall be all of the following:

(a) To oversee the Independent System Operator and the Power Exchange.

~~(b) (1) To exercise the exclusive right to decline to confirm the appointments of members of the governing board of the Independent System Operator.~~

~~(2) To determine the composition and terms of service and to exercise the exclusive right to decline to confirm the appointments of specific members of the governing board of the Power Exchange.~~

(c) To serve as an appeal board for majority decisions of the Independent System Operator governing board, as they relate to matters subject to exclusive state jurisdiction, as specified in Section 339.

(d) Those members of the Power Exchange governing board whose appointments the Oversight Board has the exclusive right to decline to confirm include proposed governing board members representing agricultural end users, industrial end users, commercial end users, residential end users, end users at large, nonmarket participants, and public interest groups.

*SEC. 2. Section 337 of the Public Utilities Code, as amended by Section 3 of Chapter 1 of the 2001-02 First Extraordinary Session, is amended to read:*

1 337. (a) ~~Within 90 days of the effective date of the act adding~~  
2 ~~this section, the existing~~ The Independent System Operator  
3 governing board shall be ~~replaced by~~ *composed of* a five-member  
4 independent governing board of directors appointed by the  
5 Governor *and subject to confirmation by the Senate*. Any  
6 reference in this chapter or in any other provision of law to the  
7 Independent System Operator governing board means the  
8 independent governing board appointed under this subdivision.

9 (b) A member of the independent governing board appointed  
10 under subdivision (a) may not be affiliated with any actual or  
11 potential participant in any market administered by the  
12 Independent System Operator. *A member of the governing board*  
13 *of the Power Exchange shall not be considered to be affiliated with*  
14 *a participant solely as a consequence of that individual's service*  
15 *on the governing board of the Power Exchange.*

16 (c) (1) All appointments shall be for ~~one-year~~ *three-year*  
17 terms.

18 (2) There is no limit on the number of terms that may be served  
19 by any member.

20 (d) The Oversight Board shall require the articles of  
21 incorporation and bylaws of the Independent System Operator to  
22 be revised in accordance with this section, and shall make filings  
23 with the Federal Energy Regulatory Commission as the Oversight  
24 Board determines to be necessary.

25 (e) *For the purposes of the initial appointments to the*  
26 *Independent System Operator governing board, as provided in*  
27 *subdivision (a), the Governor shall appoint one member to a*  
28 *one-year term, two members to a two-year term, and two members*  
29 *to a three-year term.*

30 SEC. 3. Section 341.2 of the Public Utilities Code, as  
31 amended by Section 4 of Chapter 1 of the 2001-02 First  
32 Extraordinary Session, is amended to read:

33 341.2. The Bagley-Keene Open Meeting Act (Article 9  
34 (commencing with Section 11120) of Chapter 1 of Part 1 of  
35 Division 3 of Title 2 of the Government Code) applies to meetings  
36 of the Oversight Board. In addition to the allowances of that act,  
37 the Oversight Board may hold a closed session to consider the  
38 appointment of one or more candidates to the governing board of  
39 the ~~Independent System Operator or the~~ Power Exchange,  
40 deliberate on matters involving the removal of a member of the

governing board of the Power Exchange, or to consider a matter based on information that has received a grant of confidential status pursuant to regulations of the Oversight Board, provided that any action taken on such a matter shall be taken by vote in an open session.

~~amended to read:~~

~~335. In order to ensure that the interests of the people of California are served, a five-member Electricity Oversight Board is hereby created as provided in Section 336. For purposes of this chapter, any reference to the Oversight Board shall mean the Electricity Oversight Board. Its functions shall be all of the following:~~

~~(a) To oversee the Independent System Operator and the Power Exchange.~~

~~(b) To serve as an appeal board for majority decisions of the Independent System Operator governing board, as they relate to matters subject to exclusive state jurisdiction, as specified in Section 339.~~

~~SEC. 2. Section 337 of the Public Utilities Code is repealed.~~

~~SEC. 3. Section 337 is added to the Public Utilities Code, to read:~~

~~337. (a) The Independent System Operator governing board shall be composed of three independent directors appointed by the Governor, and subject to confirmation by the Senate. Any reference in this chapter or in any other provision of law to the Independent System Operator governing board means the independent governing board appointed under this subdivision.~~

~~(b) A member of the independent governing board appointed under subdivision (a) may not be affiliated with any actual or potential participant in any market administered by the Independent System Operator.~~

~~(c) (1) All appointments shall be for three-year terms.~~

~~(2) There is no limit on the number of terms that may be served by any member.~~

~~(d) The Oversight Board shall require the articles of incorporation and bylaws of the Independent System Operator to be revised in accordance with this section, and shall make filings with the Federal Energy Regulatory Commission as the Oversight Board determines to be necessary.~~

~~SEC. 4. Section 338 of the Public Utilities Code is repealed.~~

1     ~~SEC. 5. Section 338 is added to the Public Utilities Code, to~~  
2     ~~read:~~

3     ~~338. (a) The Power Exchange governing board shall be~~  
4     ~~composed of three independent directors appointed by the~~  
5     ~~Governor, and subject to confirmation by the Senate. Any~~  
6     ~~reference in this chapter or in any other provision of law to the~~  
7     ~~Power Exchange governing board means the independent~~  
8     ~~governing board appointed under this subdivision.~~

9     ~~(b) A member of the independent governing board appointed~~  
10    ~~under subdivision (a) may not be affiliated with any actual or~~  
11    ~~potential participant in any market administered by the Power~~  
12    ~~Exchange.~~

13    ~~(c) (1) All appointments shall be for three-year terms.~~

14    ~~(2) There is no limit on the number of terms that may be served~~  
15    ~~by any member.~~

16    ~~(d) The Oversight Board shall require the articles of~~  
17    ~~incorporation and bylaws of the Power Exchange to be revised in~~  
18    ~~accordance with this section, and shall make such filings with the~~  
19    ~~Federal Energy Regulatory Commission as the Oversight Board~~  
20    ~~determines to be necessary.~~

21    ~~SEC. 6. Section 341.2 of the Public Utilities Code is amended~~  
22    ~~to read:~~

23    ~~341.2. The Bagley Keene Open Meeting Act (Article 9~~  
24    ~~(commencing with Section 11120) of Chapter 1 of Part 1 of~~  
25    ~~Division 3 of Title 2 of the Government Code) applies to meetings~~  
26    ~~of the Oversight Board. In addition to the allowances of that act,~~  
27    ~~the Oversight Board may hold a closed session to consider a matter~~  
28    ~~based on information that has received a grant of confidential~~  
29    ~~status pursuant to regulations of the Oversight Board, provided~~  
30    ~~that any action taken on that matter shall be taken by vote in an~~  
31    ~~open session.~~